

TOWN OF FENWICK ISLAND, DELAWARE

Minutes of the December 11, 2014, Regular Council Meeting

Call to Order and Flag Salute at 3:30 p.m. by Mayor Serio

Council in Attendance: Gene Langan, Diane Tingle, Bill Weistling, Audrey Serio, Gardner Bunting, Todd Smallwood and Roy Williams

Staff in Attendance: Town Manager Burke, Town Clerk Poole, Building Official Schuchman, Public Works Department Supervisor Reed, Chief Boyden

PRESIDENT'S REPORT

- Mayor Serio wished everyone a happy and safe holiday season.
- *Ad Hoc* Parks Committee appointments and objectives – Mayor Serio will be appointing a Park *Ad Hoc* Committee with the purpose of reviewing both parks. The Town has several issues in the older park as equipment is aging, park information sign is down and mature landscaping needs to be addressed. She will be appointing members after the first of the year and the committee list will be updated online.

TOPICS FOR DISCUSSION AND POSSIBLE ACTION

- Fiscal Year 2014 Audit – Sombar and Associates - Mr. Sombar reviewed the recent Town Audit noting the assets of The Town of Fenwick Island exceeded its liabilities at the close of the most recent fiscal year by \$4,203,551 (Net Assets) as compared to \$4,051,211 in the prior year. Unassigned net assets have a balance of \$28,538 which may be used to meet the Town's ongoing obligations to citizens and creditors in accordance with the Town's fund designation and fiscal policies.

As of the close of the current fiscal year, The Town of Fenwick Island's governmental funds reported combined ending fund balances of \$1,866,588, an increase of \$32,810 in comparison with the prior year. \$158,748 of the total amount is unassigned and available for use within the Town's designation and policies.

At the end of the current fiscal year, unassigned fund balance for the general fund was \$158,748 and increase of \$91,349.

Mayor Serio stated that the public should leave their copies of the Audit report as the document will be added to the website.

- Comcast Franchise Agreement – Chris Comer, Director of Gov. Affairs, Comcast – gave an update of the history of Comcast, its services and the Franchise Agreement that will be expiring on March 31, 2015. Council Member Langan asked about free internet service for the Town. Mr. Comer was asked to return at another time to discuss issues on service and additional options

available to the Town.

Motion – Motion made to authorize Mayor Serio to sign the Franchise Agreement and move forward with the Comcast Franchise Agreement starting March, 2015. – Council Member Langan

Second – Council Member Tingle

Discussion – none

Vote – (7-0)

Motion – Motion made to approve the Minutes of October 24, 2014 - Council Member Weistling

Second – Council Member Bunting

Discussion – none

Vote – (7-0)

TREASURER’S REPORT

Council Member Bunting stated that the town is in line with the budget.

Ending Balance \$2,784,331.53 (approximately 4% more than October, 2014)

FY 2015 Operating Budget (through November 20, 33% of fiscal year)

- 77% of Income
- 34% of Expenses

FY 2014 Capital Budget

- 70% of items purchased

Realty Transfer Tax (1.5%)

- \$190,755.00 (since August 1, 2014)

Outstanding Taxes and Fees

- Approximately \$26,407 including late fees (FY14 and FY15)

Public Safety Building Debt

- \$141,000 remaining

Highlights

- **Income**
 - Building permit fees are 67% of budgeted income
 - Rental receipt taxes are 73% of budgeted income
 - Parking violations are 114% of budgeted income
- **Expenses**
 - On track with budgeted expenses
 - Public works utilities 5% of budget
 - Police fuel accurate, 34%

** All financial data is from the period ending November 30, 2014*

Motion – Motion made to accept the Treasurer’s Report - Council Member Smallwood

Second – Council Member Langan

Discussion – none

Vote – (7-0)

TOWN MANAGER’S REPORT

Projects

- **Cannon Street Sidewalk (phase 2)**
- The Town solicited estimates and received one bid for \$5,400 from Clean Cut Pavers. The work will commence immediately and is scheduled to finish by December 31st.
- **Drainage Projects**
 - Town management applied for a second DNREC Surface Water Matching Planning Grant to reduce flooding along W. Dagsboro Street. If approved, the planning grant would require a 50% match from the Town.
- **Rack Cards (parking and general information)**
 - Town management is in the process of drafting a general information rack card similar to the parking rack card. Distribution will occur in 2015.
- **Website**
 - Town management is updating the website with new photos and content. Social media is updated weekly.
- **Bids**
 - Town management is preparing documents for the 2015 Beach Signage Bid and the 2015 Beach Concession Service Bid.

Grant Funding (approved / requested)

- DNREC Coastal Programs Grant (\$10,000, 50% Town of Fenwick match)
 - URS will present the Sea Level Rise Vulnerability Assessment on January 23, 2015.
- DNREC Surface Water Matching Planning Grant (\$22,000, 50% Town of Fenwick match)
 - URS will have engineered plans completed by November 30th with solicitation of bids to occur in early 2015 and construction to be completed by May 30th.
- 2015 DNREC Surface Water Matching Planning Grant (50% Town of Fenwick Island match)
 - The Town will apply for a surface water grant to off-set 50% of the engineering expense to design drainage improvements on W. Dagsboro Street from approximately McWilliams Street to Wright Street.

Meetings, Workshops and Conferences

- Town Manager Burke represented the Town of Fenwick Island at the following meetings:
 - November 5 SCAT Dinner Meeting, Ocean View, DE
 - November 7 SCAT Steering Committee, Georgetown, DE

- November 10 BBVFC EMS Budget Meeting, South Bethany, DE
- November 17 Sussex Outdoors Summit, Georgetown, DE
- December 4 DNREC Climate Change Meeting, Lewes, DE
- December 5 Sea Colony Board Municipal Luncheon, Bethany DE

DEPARTMENT REPORTS

- **Building Official** – The October and November reports were included in the Council meeting packet. The Town issued nine outside contractor's licenses. License Renewals were mailed out the week of Thanksgiving. The \$53.00 ambulance fee and square footage increases were included in all Resident Merchant License Renewals.
- **Public Works** – The monthly report was included in the Council meeting packet. All Mobi Mats have been removed from the beach.
- **Beach Patrol** – 11th Annual Fenwick Freeze will be January 1, 2015, at 10:30 am. Registration is between 9:00 a.m. and 10:00 a.m. Early registration is \$20.00, day of the event \$25.00. Registration forms are available on line and in the Town Hall.
- **Police Department** – The monthly report was included in the Council meeting packet. New replacement vehicle has been delivered to replace a seven-year-old vehicle which will be sold.

TOWN COMMITTEE REPORTS

Charter & Ordinance – Council Member Weistling –

*Proposed First Reading – October 24, 2014
Proposed Second Reading – December 11, 2014
Chapter 116 – Article II (Special Events)*

EXISTING:

[§ 116-9 Definitions.](#)

As used in this article, the following terms shall have the meanings indicated:

SPECIAL EVENT

A. All outdoor activities such as, but not limited to, weddings, races, block parties, etc., held on Town and/or state property, including but not limited to streets, parks, beaches and any Town public property.

B. Any event that requires closure of streets, parking areas and/or any Town public property.

ADD:

B. Any event that requires closure of streets, *closure of or allocation/reservation of additional parking areas, the use of any Town public property, and/or any outdoor events held in the commercial zone.*

C. The definition of "special event" shall not include any Town sponsored event.

EXISTING:

[§ 116-10 Permit required.](#)

- A. Permits for a special event/special event, nonprofit shall be required for any outdoor event held on public property and shall be issued only to a person 18 years of age or older. The person to whom the permit is issued shall be held responsible for the conduct of attendees, any activities in connection therewith and for satisfactory restoration of any area(s) involved with the special event.
- B. The Town shall require the applicant to complete a special event application. A fee and deposit will be charged for any special event. Such fees are set annually by resolution by Town Council. There will be no fee for any special event, nonprofit.
- C. Rules and regulations will accompany a special event permit. Such rules and regulations are set by resolution of the Town Council.

PROPOSED:

§ 116-10 Prior Notice and permit required.

- A. Permits for a special event *or a nonprofit* special event, shall be required for any outdoor event held on public property and/or any outdoor event held on property in the commercial zone and shall be issued only to a person 18 years of age or older. The person to whom the permit is issued shall be held responsible for the conduct of attendees, any activities in connection therewith and for satisfactory restoration of any area(s) *involved with or used in connection with* the special event.
- B. All special events are prohibited unless a written application therefor is submitted to the Town Manager at least thirty (30) days prior to the special event.
- C. The Town shall require the applicant to complete a special event application. A fee and deposit will be charged for *all* special events. Such fees are set annually by resolution *of the* Town Council. There shall be no fee charged for any nonprofit special event.
- D. Only two (2) special events, with each anticipating attendance to reach or exceed 75 people, shall occur on the same day. All special events with attendance anticipated to reach or exceed 75 people shall be required to have a Town police officer on site for the duration of the special event with all costs associated therewith to be borne by the applicant.
- E. Rules and regulations will accompany *and be made a part of each* special event permit *issued*. Such rules and regulations *shall be established* by resolution of the Town Council, *which may be amended from time to time in Town Council's sole discretion*.
- F. Applicant, upon application for a special event permit and upon acceptance of any special even permit issued by the Town, agrees to indemnify and hold the Town, its officers, members, agents and employees, harmless from any and all demands, claims causes of actions, damages, injuries, liabilities, penalties and expenses (including fees and disbursements of legal counsel) arising out of or resulting in any manner from the special event held.

EXISTING:

§ 116-11 Violations and penalties.

Any person violating the provisions of this article shall be fined \$100 and costs for each and every offense.

PROPOSED:

§ 116-11 Denial and/or modification of permit application and appeal.

- A. The Town Manager and Chief of the Fenwick Island Police Department may deny or modify any special event permit.
- B. The Town Manager shall, within seven (7) days, approve, deny and/or modify the application.
- C. The applicant may appeal any denial and/or modification of the permit by promptly filing with the Town Clerk a written notice setting forth grounds for such appeal. Said appeal will be held before Town Council.
- D. The Town Manager shall inform Town Council and schedule a hearing to consider said appeal.
- E. The decision of Town Council regarding an appeal shall be final.

Insert:

§ 116-12 Violations and penalties.

Any person who shall violate or fail to conform to any of the provisions of this chapter shall be subject to penalties under this section not exceeding \$500.00 per violation for each day of violation, as well as the Town's costs and expenses, including reasonable attorneys' fees, incurred to enforce the provisions of this chapter and/or to collect the penalties imposed hereunder. Penalties assessed for a violation of this chapter shall be considered civil penalties and any action brought for the recovery of the penalties by the Town shall be brought in any civil court of competent jurisdiction.

Re-number existing § 116-12 and § 116-13.

Motion – Motion made to approve the Second Reading – Chapter 116 (Article II) – Special Events with changes as read – Council Member Weistling

Second – Council Member Tingle

Discussion – Council Member Weistling stated the highlights: 1) Adding a permit for Special Events in the commercial zone (outdoor events). 2) Town will require 30 days prior notice for any outdoor event permit. 3) Hold the Town harmless with this new section for any possible law suits. 4) Town Manager or Fenwick Island Police Chief can deny a permit application. 5) Added an appeal process, to Town Council, if the application is denied.

Vote – Council polled - On approving the Second Reading Section 116 – Article II - Special Events with the deletions/additions and renumbering of Chapter 116-9, 10, 11, 12. **(7 - Ayes)**

Council Members Polled - Council Members Langan, Tingle, Weistling, Serio, Bunting, Williams and Smallwood

Charter & Ordinance – Council Member Weistling

Proposed First Reading – December 11, 2014
Chapter 88 – Flood Damage Reduction

Chapter 88 First Reading read into the minutes. SEE ATTACHED DOCUMENT (28 pages) – Chapter 88 – Flood Damage Reduction, first reading December 11, 2014.

Motion: Motion made for the Town to consider amending the Code of Ordinance to repeal Chapter 88 – Flood Damage Prevention that is in existence and to adopt a new Chapter 88 – Flood Damage Reduction; to also adopt the Flood Hazard Maps, to designate a Flood Plain Administrator, to adopt Administrative Procedures, and to Adopt Criteria for Development in Flood Hazard Areas, and for other purposes; to provide for the Applicability; Repealer; and an Effective Date – Council Member Weistling

Second: Council Member Langan

Discussion: Brief history on the process: it started over two years ago when the Town was notified that the Flood Plain Maps were going to be changed. The Maps were changed after an appeal process and Public Hearing Workshops were held. After that DNREC submitted a sample model ordinance that was strongly recommended for the Town to adopt. All Towns in Delaware were asked to follow this particular model to maintain consistency. The Town of Fenwick Island reviewed the ordinance, made some changes and went for the first reading at the October Council Meeting and Council decided not to vote on the ordinance at this time and to request more information. A Public Hearing Workshop was scheduled on November 25th with Greg Williams, Certified Flood Plain Manager of DNREC here to answer questions from the Council and the public. A December 2nd Special Meeting of Council was held to discuss and email further questions to Mr. Williams and some answers were provided. Some of the highlights: The ordinance needs to be passed so the Town can stay in the National Flood Insurance Program. The Town has been in this program since 1973. The effective date of the ordinance is March 15, 2015. Three maps zones in the Town had flood elevation base lines reduced on the new review from FEMA and DNREC. They also added an additional increase of the base flood elevation lines along the bayside area. Some bayside areas will now actually be raised 1 (one) foot above what the required elevation is now. The ordinance requires all duct work to be at or above base flood elevation, which actually in many cases, raises the first floor requirement above the mandatory base flood elevation that is required for the Town. The Town has decided to add two (2) feet of free board for the lowest floor elevation above base flood elevation in the residential area. After the 2nd reading is approved on Chapter

88, it needs to be reviewed by 3 other separate agencies so it can be approved by DNREC and FEMA finally by March 15, 2015.

Vote: (7-0) First Reading Passed

- **Charter & Ordinance** – Chair Weistling stated the next meeting will be January 6, 2015, at 9:30 a.m. Also, on January 21, 2015, at 2:00 p.m., there will be a meeting with Mr. Ted Williams, from Landmark Engineering. He will be looking at all our commercial areas and giving a power point presentation on, “How the Commercial Area will Look under Different Setbacks Situations”, if the Town decides to move the buildings toward the front along Coastal Highway rather than in the rear. He will be available for questions after the presentation from members of Council and public.
- **Beach Committee** – None
- **Environmental Committee** – None
- **Technology Committee** – Council Member Langan reported the next meeting will be December 16th. The meeting is to consider changing/replacing of the Town’s phone system.
- **Business Development Committee** – Next meeting will be scheduled after January 21, 2015, Special Council Meeting with Ted Williams on Commercial Set Backs. .
- **Planning Commission** – Next meeting January 13, 2015, at 2:30 p.m.
- **Old Business** – none
- **New Business** – Council Member Weistling noted the passing of a long time resident, Joe Camardese. Mayor Serio stated that the Town Luncheon was held at Just Hooked, with great attendance. Only two (2) police officers missing, the officer on duty and officer who worked the midnight shift.

PUBLIC PARTICIPATION

- Ben Waide – 12 W Dagsboro St. – Stated the budget presentation was professional presentation and excellent job. It makes the Budget Committee’s job much, much easier. Job well done.
- Phil Craig – 12 Oyster Bay Dr. – Is there a provision/adjustment within Chapter 88 on how the height is measured once the mandatory free board is enacted. Council Member Weistling stated that this would be under zoning, not Chapter 88. Mayor Serio stated that this would be addressed after the first of the year in Charter and Ordinance.
- Lynn Andrews – 1205 Schulz Road – Mrs. Andrews not sure how Chapter 88 applies to Fenwick Island when South Bethany has shelved it. Mayor Serio stated that each Town will make their own decision. Mrs. Andrews also asked “How many vacant lots do we have left in Town?” Building Official Schuchman stated 50 vacant lots in Town.
- Vicki Carmean – 38 Ebb Tide Cove – stated that free board should be written into the Town Code. Anyone who tried to clean up after Hurricane Sandy realizes that there is a lot of damage that comes with flooding.
- Mike Quinn – 5 W Houston St. – asked, “Will a house have to meet code to be sold if it’s grandfathered in under Chapter 88?” Mayor Serio stated that only new construction and remodels that will increase the value of the property 50% or more.

UPCOMING MEETINGS AND EVENTS

Council Member Serio announced the following upcoming meetings and events as follows:

- | | | |
|-------------------------|------------------|---|
| a. December 24, 25 & 26 | Town Hall Closed | Christmas Holiday |
| b. December 31 & Jan. 1 | Town Hall Closed | New Year's Eve Holiday |
| c. January 6 | 9:30 a.m. | Charter and Ordinance Committee Meeting |
| d. January 13 | 2:30 p.m. | Planning Commission |
| e. January 15 | 2:30 p.m. | Environmental Committee Meeting |
| f. January 16 | 10:00 a.m. | Technology Meeting |
| g. January 19 | Town Hall Closed | Martin Luther King Jr. Day |
| h. January 21 | 2:00 p.m. | Commercial Setback Meeting |
| i. January 23 | 3:30 p.m. | Monthly Council Meeting |

Motion to adjourn – Council Member Tingle

Second – Council Member Langan

Discussion – none

Vote – (7-0)

Meeting adjourned at 4:45 p.m.

**Transcribed by Linda Poole, Town Clerk
for Council Member Diane Tingle, Secretary*